

**CITY OF NEWPORT BEACH**  
**PLANNING COMMISSION STAFF REPORT**

May 3, 2012 Meeting

Agenda Item \_\_5

**SUBJECT:** Review of Rules of Procedures of the Planning Commission ( PA2012-065 )

**PLANNER:** Brenda Wisneski, AICP, Deputy Community Development Director  
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As requested by Chair Toerge at a previous Planning Commission meeting, attached, for your review, are the Rules of Procedures of the Planning Commission (Procedures). In accordance with Section XV, the Planning Commission may propose to amend or add to the Procedures at a regular meeting. If modifications are requested by the Planning Commission, the revised Procedures will be presented to the Planning Commission at its next meeting for final consideration.

**RECOMMENDED ACTION**

1. Review and modify, as needed, the Rules of Procedures of the Planning Commission; and
2. Direct staff to revise and present the Procedures at the next regular Planning Commission meeting to consider a final motion for approval.

**ATTACHMENT**

PC 1 Rules of Procedures of the Planning Commission

## **PLANNING COMMISSION**

**AUTHORIZATION:** Article VII, Section 706, 707 of the Charter of the City of Newport Beach.

**MEMBERSHIP:** Members (7) appointed by the City Council.

**TERM:** Four (4) years.

**PURPOSE & RESPONSIBILITIES:**

- A. After a public hearing thereon, recommend to the City Council the adoption, amendment or repeal of a Master Plan, or any part thereof, for the physical development of the City.
- B. Exercise such control over land subdivision as is granted to it by ordinance not inconsistent with the provisions of the Charter.
- C. Make recommendations to the City Council concerning proposed public works and for the clearance and rebuilding of blighted or substandard areas within the City.
- D. Exercise such functions with respect to zoning and land use as may be prescribed by ordinance not inconsistent with the provisions of this Charter.

**STAFF LIAISON:** Assistant City Manager for Community and Economic Development

# RULES OF PROCEDURES OF THE PLANNING COMMISSION

## CITY OF NEWPORT BEACH, CALIFORNIA

### I. TITLE

The official title of this Commission shall be "Planning Commission of the City of Newport Beach, California."

### II. MEMBERSHIP AND TERM

Pursuant to Section 702 of the City Charter, the Planning Commission shall consist of seven members appointed and approved by the City Council. Each member shall serve a term of four years, such terms to be on a staggered basis. Pursuant to the City Council Policy A-2, Commission appointments can be extended beyond one term when in the judgment of the Council, a reappointment would recognize and extend an unusual contribution by the incumbent. In no event will individual appointments to the Commission exceed two consecutive full terms, exclusive of appointments to fill unexpired terms. The Planning Director, the City Engineer, and the City Attorney, or their representatives, are advisors to the Commission and do not have a vote.

### III. OFFICERS

A. The offices of the Commission shall be:

1. Chairman, whose duties shall be to preside at all meetings, and to call all special meetings, appoint committees, and perform all other proper duties of a presiding officer.
2. Vice Chairman, who in the absence of the Chairman, or his inability to act, shall preside at all meetings and perform all other duties of the Chairman.
3. Secretary, who in the absence of the Chairman and Vice Chairman, or their inability to act, shall preside at all meetings and perform all other duties of the Chairman. The Secretary shall also keep a written record of all business transacted by the Commission, prepare the agenda of regular and special meetings arrange proper and legal notice of hearings, attend to correspondence of the Commission, and such other duties as are normally carried out by a Secretary. In his absence, the Secretary may delegate his duties to the Planning Director, and the Planning Director shall be known as the Ex-Officio Secretary of the Planning Commission.

- B. The Chairman, Vice Chairman, and Secretary shall be elected at the annual meeting of the Commission or an adjournment of that meeting, and shall hold office for a period of one year or until their successors are elected. In the event an office becomes vacant, a successor shall be elected to fill the remainder of the unexpired term.

#### IV. ADVISORS

The Chairman may, with consent of the Planning Commission, request the attendance at Planning Commission meetings of any officer or employee of the City to assist the Commission in its deliberations in an advisory capacity.

#### V. LOCATION OF MEETINGS

The Planning Commission shall hold all of its meetings, whether the same shall be a regular or special meeting or study session, in the council chambers of the City Council in the City Hall Building, or in any such other place after notice duly given, within the corporate limits of the City.

#### VI. TIME OF MEETINGS

- A. The annual meeting of the Commission shall be the first regular meeting in July of each year.
- B. Regular meetings of the Commission shall be held on the Thursdays preceding the second and fourth Tuesday of each month. These meetings shall commence at the hour of 6:30 p.m. except that the Chairman may call for said meetings to commence at an earlier hour when it is determined that the Commission's workload warrants such earlier starting time. When this schedule conflicts with holidays or the mandates of priority projects, the Commission may alter this schedule as set forth in sections E and F below. Proper notice of such meeting shall be given according to the requirements of applicable law.
- C. In addition to regular meetings, the Planning Commission may convene a study session to hear reports from the staff and review, discuss and debate general planning and zoning matters of interest to the City preceding any regularly scheduled meeting when the Planning Commission Chairman makes the determination that a study session is warranted. No official action will be taken at a study session.

During a study session, the Planning Commission may also become informed about a major project proposal within the City or its sphere of influence, or any other matter within the jurisdiction of the Planning Commission. No approval of any type may be given at a study session and none may be inferred. No question, comment or suggestion by any member of the Planning Commission, positive or



negative, will be deemed to create any indication the Planning Commission will approve or disapprove a project.

- D. No agenda item shall be introduced after the hour of 10:30 p.m. Furthermore, any item introduced and being discussed by 11:00 p.m. and not concluded by 11:30 p.m. shall be continued by the Planning Commission to another date. The intent and purpose of this policy is to facilitate maximum public participation and to encourage a reasonable hour in which the Planning Commission business is discussed and to protect against fatigue in discussing and deciding important City issues. The above time periods may be extended by motion approved by majority vote of the Commissioners present.
- E. Any meeting may be adjourned from time to time by the majority vote of the members present.
- F. Special meetings may be held as deemed necessary at the request of the majority of the members of the Commission or by call of the Chairman, Vice Chairman, or Secretary; notice of such special meetings shall be posted and served upon all members at least 24 hours before the special meeting, and to each local newspaper of general circulation, radio, and television station requesting notice in writing. The notice shall specify the time, place, and matters to be considered at the special meeting, and only the matters specified may be considered.

## VII. AGENDAS

- A. As provided herein, an agenda containing a brief description of each item of business to be transacted or discussed shall be posted at a location freely accessible to the public at least 72 hours before each regular meeting. Study session agendas shall be distributed to the public on the same basis as regular agendas.
- B. All regular, adjourned, special meeting or study session of the Planning Commission shall be open to the public and to the maximum extent possible afford the public an opportunity to comment on all matters before the Planning Commission.. Every agenda shall provide an opportunity for members of the public to speak on any off-agenda item of interest to the public.
- C. No action may be taken on an off-agenda item unless (a) a majority of those Commissioner present determine that an emergency situation exists; or (b) two-thirds of the Commissioners, or all of the Commissioners if less than two-thirds are present, determine there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the posting of the agenda; or (c) the item was included in a properly posted agenda for a prior meeting occurring not more than five days prior to the meeting at which the action is taken and the matter was continued to the meeting at which action is taken. It is

inevitable that subjects will arise, either during the course of consideration of agenda items or during public comment, on which no action can be taken because the circumstances outlined in (a) through (c) above do not exist. In such event, the Chairman shall have the power to refer the matter to staff, or to place the item on the agenda of a future meeting, or both.

#### VIII. VOTING PROCEDURE

- A. At any meeting of the Planning Commission a majority of said Commission shall constitute a quorum for the transaction of business. Every Commissioner should vote unless disqualified by reason of a conflict of interest. A Commissioner who abstains from voting is counted as being present and in effect consents that a majority of those present and voting shall decide the question voted upon.
- B. Any vote of the Commission, including a roll call vote, may be registered by the members by answering "YES" for an affirmative vote, or "NO" for a negative vote upon the member's name being called by the Recording secretary, or by pressing a switch to cause a green light to show for an affirmative vote, or a red-light to show for a negative vote upon a vote being called for by the Chairman. The result of any vote registered by means of a lighting system shall be audible announced by the Recording Secretary and recorded in the minutes as the vote. If a member is present and does not cast a vote as described above, that member shall be considered as abstaining. In case of emergency or problems with the vote registering lighting system, the Chairman may determine any other reasonable manner to vote and register votes on any matters on any agenda.
- C. Any Commissioner who is disqualified from voting on a particular matter by reason of a conflict of interest shall publicly state or have the Chairman state this determination and the nature of such disqualification in open meeting. Where no clearly disqualifying conflict of interest appears, the matter of disqualification may, at the request of the Commissioner affected, be decided by the other members of the Commission. A Commissioner who is disqualified by reason of a conflict of interest in any matter shall not remain in his seat during the debate and vote on such matter, but shall request and be given the permission of the Chairman to step down from the Commission table. A Commissioner stating such disqualification shall not be counted as a part of the quorum and shall be considered absent for the purpose of determining the outcome of any vote on such matter.
- D. Any tie vote shall constitute a lost motion and may be reconsidered at the same meeting at which the action was taken, by a motion offered by any Planning Commissioner who voted on the matter. If there is no action by an affirmative vote, the result is denial.



- E. Except for a tie vote, a motion to reconsider any action taken by the Planning Commission must be made at the same meeting at which the action was taken and may only be made by one of the Planning Commission members who voted with the prevailing side.

## IX. ORDER OF BUSINESS

- A. The order of business for regular, adjourned, or special meetings shall be:
  - 1. Call to order by the Chairman.
  - 2. Public comment.
  - 3. Approval of minutes of preceding meeting.
  - 4. Consideration of matters on the agenda.
  - 5. Additional Business, including:
    - a. Report of Council actions on Planning-related matters
    - b. Committee Reports
    - c. Matters which a member may wish to place on a future agenda
  - 6. Any other business which may properly come before the Commission.
  - 7. Adjournment.

## X. CONDUCT OF MEETINGS

- A. All meetings shall be conducted under the order of parliamentary procedure as specified in the last revised edition of Robert's Rules of Order to the extent that such rules are not in conflict with these Rules of Procedure.
- B. All Commissioners shall address all questions and comments through the Chairman.
- C. All persons attending meetings of the Commission will be asked to identify themselves, sign the sheet at the podium, and address Commissioners or other persons present through the Chairman.
- D. Exhibits: All maps, letters and documents considered by the Commission at any hearing shall become a part of the records of the Commission.

- E. Motion: Second Required. A motion by any member of the Commission, excluding the presiding officer, may be considered by the Commission only upon receiving a second.
- F. Substitute Motions: A substitute motion may be made by any member of the Commission after a motion is on the floor. The substitute motion will suggest a different course of action or the opposite action of the main motion. No more than two substitute motions can be placed on the table for consideration at the same time. If the substitute motion fails, the main motion remains on the floor. If the substitute motion passes, it will cancel out the main motion
- G. If an applicant submits additional written or printed material for the Planning Commission's consideration less than seven (7) working days prior to the date of the hearing on the matter, the Planning Commission may continue the matter and the applicant shall be deemed to have consented to such a continuance.
- H. E-mails: "E-mails from Planning Commissioners requesting minor clarification of factual information provided to Planning Commissioners by staff for any Planning Commission agenda item may be answered by the Planning Director or his designee prior to the Planning Commission meeting at which such agenda item is to be considered. E-mails raising new issues or expanding upon issues addressed in the staff report for an agenda item that, as determined by the Planning Director, are more appropriately considered by the Planning Commission at a public meeting will be printed for distribution to Planning Commissioners at the respective meeting.

E-mails sent directly to Planning Commissioners after agenda packets have been distributed and before the respective Planning Commission meeting shall be forwarded to the Planning Department for printing and/or copying for distribution to Planning Commissioners at the respective Planning Commission meeting. Information contained in any such e-mails from a project applicant which the Planning Commission determines, in a public meeting, may have significant bearing on the agenda item under consideration may be cause for the Planning Commission to continue such agenda item to allow sufficient time for review and analysis of such information and the applicant shall be deemed to have consented to such a continuance."

## XI. COMMITTEES

The chairman may appoint such committees as may be deemed necessary to carry out the function of the Planning Commission. Members shall serve at the pleasure of the Chairman.



## XII. CORRESPONDENCE AND COMMUNICATIONS

It shall be the duty of the Ex-Officio Secretary to draft and sign all correspondence necessary for the execution of the duties and functions of the Planning Commission as hereinbefore stated in the rules of the Newport Beach Planning Commission.

## XIII. ATTENDANCE

- A. Regular attendance at meetings of the Planning Commission is required of all members to enable the Commission to discharge the duties imposed upon it by law.
- B. A Commissioner absent from three consecutive regular meetings without securing the consent of the Commission, entered upon the minutes, shall be deemed to have resigned.
- C. The Secretary shall notify the City Council of such resignation and request, in the name of the Commission, appointment of a new member to fill the unexpired term of the member resigning.

## XIV. POLICY

All matters of policy not covered by law may be adopted as a "Resolution of Policy" and when so adopted shall be considered as the official policy of the Commission.

## XV. AMENDMENT OF RULES

- A. These rules may be proposed to be amended or added to by four affirmative votes of the Planning Commission at a regular meeting pursuant to the procedures in Section XVB.
- B. No amendment of or addition to these rules shall be made unless notice in writing of the proposed amendment or addition shall be filed with the Ex-Officio Secretary at the regular meeting next preceding the meeting at which the motion to change is made.

Adopted	December 16, 1976
Amended	August 3, 1978
Amended	September 7, 1978
Amended	November 8, 1979
Amended	January 25, 1980
Amended	February 5, 1981
Amended	March 18, 1982
Amended	February 5, 1987

Amended	October 6, 1988
Amended	July 7, 1994
Amended	August 8, 1996
Amended	May 6, 1999
Amended	December 7, 2000
Amended	November 2006
Amended	February 2007
Amended	April 2008